

# Notice of Allowability

Application No.

09/650,005

Examiner

Tom Y. Lu

Applicant(s)

OSBORNE ET AL.

Art Unit

2621

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 11/18/2005.
2. ☒ The allowed claim(s) is/are 1-21, 23 and 25-29.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

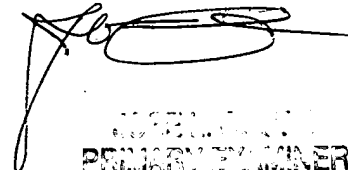
\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 11/18/2005
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
PRIMARY EXAMINER

**DETAILED ACTION**

***Response to Amendment***

1. Request for Continued Examination filed on 11/18/2005 has been entered.
2. Upon entry of the Request for Continued Examination, the amendment and written response filed on 11/18/2005 has been entered.
3. Claims 1, 12, 21, 23, 25 and 28 have been amended.
4. Claims 22, 24, 30, 31 and 32 have been cancelled.
5. Claims 1-21, 23 and 25-29 are pending.

***Response to Arguments***

6. Applicant's arguments, see Remarks, filed on 11/18/2005, with respect to claims 1-21, 23 and 25-29 have been fully considered and are persuasive. The rejection of claims 1-21, 23 and 25-29 has been withdrawn.

***Allowable Subject Matter***

7. Claims 1-21, 23 and 25-29 are allowed.

The following is an examiner's statement of reasons for allowance:

- a. Independent claims 1, 21 and 25 all define a feature of analyzing hybridization information through use of a rate algorithm comprising detecting high gene expression levels, detecting low gene expression levels, and relating said gene expression levels with patient family history to determine a likelihood of developing a specific disease. This feature in combination with other features in claims 1, 21 and 25 is not taught or suggested by the art of record.
- b. Claims 2-20 are dependent upon Claim 1.

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- c. Claims 26-27 are dependent upon Claim 25.
- d. Independent claims 23 and 28 both define a similar feature of diagnosing a probable physiological condition by analyzing data through the use of artificial intelligence, which comprises application of a rate algorithm adapted to detect changes between the stored proteomics parameters and a generated proteomics profile by detecting high protein levels, detecting low protein levels and relating the protein levels with patient family history to determine a likelihood of developing a specific disease. This feature in combination with other features in claims 23 and 28 are not taught by the art of record.
- e. Claim 29 is dependent upon claim 28.

8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

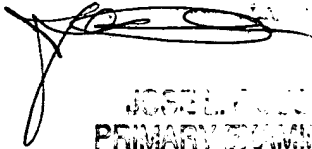
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Y. Lu whose telephone number is (571) 272-7393. The examiner can normally be reached on 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Mancuso can be reached on (571)-272-7695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tom Y. Lu



JOSEPH LU  
PRIMARY EXAMINER